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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,532	10/25/2001	Douglas S. Nordgren	47097-01005	2558
28763	7590	10/01/2004	EXAMINER	
WINSTON & STRAWN PATENT DEPT 1400 L STREET NW WASHINGTON, DC 20005-3502			DEL SOLE, JOSEPH S	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/001,532	NORDGREN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph S. Del Sole	1722	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-9

Claim(s) withdrawn from consideration: 10-17

8.  The drawing correction filed on \_\_\_\_\_ is a) approved or b) disapproved by the Examiner.
9.  Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10.  Other: See Continuation Sheet

## RESPONSE TO ARGUMENTS AFTER FINAL

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kruelskie (3,914,085).

Kruelskie teaches the vertically and horizontally adjustable lip assembly (Fig 2, #21) of an extrusion die (Fig 1, #13) for adjusting the width and thickness of extrudate during operation of the die, as claimed in claims 1-5, the assembly having a first die lip having a first end (Fig 2, #38); a first end block (Fig 2, #43) adjacent to the first end of the first die lip; a second die lip (Fig 2, #38a) having a first end and adjacent to and spaced from the first die lip and the first end block to define a gap (Fig 2) between the first die lip and the first end block and the second die lip; a second end block (Fig 2, #43a) adjacent to the first end of the second die block; a first adjustment mechanism (Fig 2, #39) coupled to the first die lip for moving the first die lip and the first end block parallel to the second die lip and the second end block to adjust extrudate width (col 2, lines 48-51 and lines 56-59 and col 3, lines 21-24); a second adjustment mechanism (Fig 2, #34) coupled to the first die lip for moving the first die lip and the first end block perpendicular to the second die lip and the second end block to adjust extrudate thickness (col 3, lines 14-21); a third adjustment mechanism (Fig 2, #39a) coupled to

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the second die lip for moving the second die lip and the second end block parallel to the first die lip to adjust extrudate width (col 2, lines 48-51 and lines 56-59 and col 3, lines 5-10 and lines 21-24); a fourth adjustment mechanism (Fig 2, #34a) coupled to the second die lip for moving the second die lip and the second end block perpendicular to the first die lip and the first end block to adjust extrudate thickness (col 3, lines 14-21); the lip assembly is mounted on an outside surface of the die (Figs 1-3) and the first adjustment mechanism and the second adjustment mechanism are operable during operation of the extrusion die to adjust the width and thickness of the extrudate (col 3, lines 38-40); likewise, as claimed in claims 5-7, Kruelskie teaches an adjustable lip assembly (Fig 2, #21) of an extrusion die (Fig 1, #13) for adjusting the width and thickness of extrudate during operation of the die, having a first die lip having a first end (Fig 2, #38); a first end block (Fig 2, #43) adjacent to the first end of the first die lip; a second die lip (Fig 2, #38a) parallel and adjacent to the first die lip and the first end block, the second die lip spaced from the first die lip to define a gap therebetween (Fig 2), the second die lip including a first end; a second end block (Fig 2, #43a) adjacent to the first end of the second die lip; a first mechanism (Fig 2, #39) for moving the first die lip and the first block parallel to the second die lip and the second block during operation of the die to widen and narrow the width of the gap (col 2, lines 48-51 and lines 56-59 and col 3, lines 21-24 and lines 38-40; in interpreting "one of said first die lip and said first block and said second die lip and said second block" the Examiner has grouped "said first die lip and said first block" as one grouping and "said second die lip and said second block" as the alternative grouping and furthermore "first block" is the

same as "first end block" and "second block" is the same as "second end block"); a second mechanism (Fig 2, #34) for moving the first die lip and the first block perpendicular to the second die lip and the second block to increase and decrease the height of the gap (col 3, lines 14-21); a third mechanism (Fig 2, #34a) for moving vertically the second die lip and the second block (col 3, lines 14-21); a fourth adjustment mechanism (Fig 2, #39a) for moving horizontally the second die lip and the second block (col 2, lines 48-51 and lines 56-59 and col 3, lines 5-10 and lines 21-24); and further likewise, as claimed in claims 8-9, Kruelskie teaches an adjustable foam die assembly (Fig 2, #21, col 3, lines 49-52, although Kruelskie does teach the assembly for foam, the Examiner notes that the limitation "foam" itself does not limit the apparatus because it is an intended use limitation), having a top adaptor (Fig 2, #30); a bottom adaptor (Fig 2, #31); a top die lip (Fig 3, #38), the top die lip mounted on the top adaptor to allow vertical and horizontal movement of the top die lip relative to the top adaptor (Fig 3, the top die lip is mounted on the top adaptor through attachment means 34, 36 and 39); a bottom die lip (Fig 2, #38a), the bottom die lip mounted on the bottom adapter to allow vertical and horizontal movement of the bottom die lip relative to the bottom adaptor (Fig 3, the bottom die lip is mounted on the bottom adaptor through attachment means 34a, 36a and 39a); a first horizontal adjustment mechanism (Fig 2, #39) coupled to the top die lip for moving the top die lip horizontally relative to the top adaptor and the bottom lip (col 2, lines 48-51 and lines 56-59 and col 3, lines 21-24); a second horizontal adjustment mechanism (Fig 2, #39a) coupled to the bottom lip for moving the bottom die lip horizontally relative to the bottom adaptor and the top lip (col

2, lines 48-51 and lines 56-59 and col 3, lines 5-10 and lines 21-24); a top vertical adjustment mount (Fig 3, #36) secured to the top lip for vertically adjusting the top lip relative to the bottom lip and the top adaptor (col 2, lines 43-48 and col 3, lines 14-21); a bottom vertical adjustment (Fig 3, #36a) secured to the bottom lip for vertically adjusting the bottom lip relative to the top lip and the bottom adaptor (col 2, lines 43-48 and col 3, lines 5-10 and lines 14-21); a first end block (Fig 3, #43) mounted adjacent to the top die lip and moveable horizontally and vertically therewith by the first horizontal adjustment mechanism and the top vertical adjustment mount (col 2, lines 43-51 and lines 56-59 and col 3, lines 14-21), and a second end block (Fig 3, #43a) mounted adjacent to the bottom die lip and moveable horizontally and vertically therewith by the second horizontal adjustment mechanism and the bottom vertical adjustment mount (col 2, lines 43-51 and lines 56-59 and col 3, lines 5-10 and lines 21-24).

***Response to Arguments***

3. Applicant's arguments filed 9/21/04 have been fully considered but they are not persuasive.

The Applicant argues that Kruelskie only describes a mechanism that can adjust the vertical position of an upper die plate relative to a lower die plate.

The Examiner disagrees. The die lips include the features shown by #s 38, 39, 43, 46 (and their respective 'a' counterparts). Adjustment of these features changes the width of the die opening as discussed in the specification at column 2, lines 48-51 and lines 56-59 and column 3, lines 21-24.

The Applicant argues that adjusting means 17 and 18 would be impossible to use to vary the width of the extrusion.

While this may be true, it is not adjusting means 17 and 18 that adjust the die lip width, but rather #s 38, 39, 43 and 46 as discussed above.

The Applicant argues that Kruelskie discloses that the assembly 21 can be mounted on a front face of the die, proximate the orifice 15 and thus the assembly is separate from and located downstream of the extrusion orifice. Further, that the die lip and die plate is separate and distinct from the shaping assembly after it has been extruded, and that the assembly of Kruelskie does not function as the extrusion orifice of a die.

The Examiner disagrees. While separate features are used to adjust height and width in Kruelskie, so too are separate features (28 and 56) used to adjust height and width in the Applicant's invention. These separate features are taught by 38, 39, 43 and 46, which including surface 41 to form a die opening, adjustable in width and thickness directions and thus teach the Applicant's claimed invention. While the die opening 15 may be different from the die opening formed by 38, 39, 43 and 46, it is nevertheless a die opening as claimed by the invention. The assembly of Kruelskie formed by 38, 39, 43 and 46 is, and functions as, an extrusion orifice of a die. It is well known in the art that extrusion dies are used to reshape preforms as disclosed in Kruelskie.

The Applicant argues that claims 2-9 are allowable for the reasons set forth for claim 1.

The Examiner disagrees for the previously stated reasons.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Benjamin Utech, can be reached at (571) 272-1137. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

*Joseph S. Del Sole*  
J.S.D.  
September 29, 2004

Continuation of 10. Other: See attached Response setting forth the claim rejections and responding to the Applicant's arguments..